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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,179	12/18/2001	Paul Moroney	018926-003800US	7535
20350	7590	02/07/2005		EXAMINER
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			POLTORAK, PIOTR	
			ART UNIT	PAPER NUMBER
			2134	

DATE MAILED: 02/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/890,179	MORONEY, PAUL	
	Examiner	Art Unit	
	Peter Poltorak	2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-20 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 18 December 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-20 have been examined.

Priority

2. Priority based on U.S. Provisional Applications: 60/117,788 (1/29/99) and 60/128,772 (4/9/99) has been claimed in this application.

Drawings

3. The drawings are objected to because some of the text in Fig. 2b is not legible.
4. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 3-9, 11-12 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention.
7. In claims 3-4 and 12 the following lack antecedent basis:
 - a. Claims 3, 4: "said telephony network",
 - b. Claim 12: "the authentication certificate".
8. Claim 17 is dependent on claim 15 and limitation in claim 17 refers to "an encrypted message". Is not clear whether the limitation refers to the same encrypted message as recited in claim 15 or whether it explicitly means to separate these two. If separation of these two encrypted messages was intended it is no clear how the two messages are differentiated.
9. The application comprises two claims "11".
10. Claims 5-9 are rejected by virtue of their dependence.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 1-5, 9-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Carswell et al.* (U.S. Patent No. 5365591) in view of *Atkinson et al.* (U.S. Patent No. 5892904).

12. As per claim 1 *Carswell et al.* teaches a dual processor device (*link encryptor, Fig. 1 object 14*) which receives and decrypts a cipher message (col. 2 lines 42-57), a secure processor (*crypto processor*) which encrypts/decrypts messages (col. 2 lines 48-54) and a host processor (*red processor*) which processes unencrypted data (col. 3 line 21).

Carswell et al. do not explicitly teach the authenticating of the encrypted message utilizing an authentication certificate.

Atkinson et al. teach authenticating the encrypted message utilizing an authentication certificate (*Atkinson et al., col. 2 line 61- col. 3 line 4*). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to expand the encryption capability of a secure processor as taught by *Carswell et al.* by authenticating the encrypted message utilizing an authentication certificate as taught by *Atkinson et al.* One of ordinary skill in the art would have been motivated

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to perform such a modification in order to ensure the authenticity and integrity of the message (*Atkinson et al., Abstract*).

13. As per claims 2 and 3 *Carswell et al.* teach a cable telephony adapter (the dual processor) coupled with a gateway controller (*Fig. 1, object 13*) and with a user computer (*Fig. 1, object 15*).
14. As per claim 4 *Carswell et al.* teach a second cable telephony adapter, a second gateway controller and a second user computer (*Fig. 1*).
15. The limitations of claims 9-10 are implicit; clear text from a host processor is encrypted by a secure processor which is the only entity with encryption capability in *Carswell et al.*'s invention. Also, *Carswell et al.* teach a host processor coupled to a terminal (*Carswell et al., col. 2 lines 63-66, Fig. 2*).
16. Claim 16 is implicit: *Carswell et al.* teach a host processor (*red processor*) handling plain text data (*col.2 line 41*) and a crypto processor which converts the plain text data to cipher text data (*col. 1 lines 52-54*), and also teach a message flow from the cable telephony network to a user computer (*terminal*) through a dual processor device (*link encryptor, Fig. 1*) which decrypts the message and produces a plain text message (*col.2 lines 50-58*).
17. *Atkinsons et al.* teach the limitations of claim 12 in col. 2 lines 61-67.
18. *Atkinson et al.* teach the limitations of claims 11-14 in col. 2 line 61-col. 3 line 2, col. 4 lines 42-46, *Fig. 4* and col. 6 lines 44-52. The limitations of claims 11 (first and second) and 14 are implicit since a secure processor uses decryption and authentication keys.

19. Claims 15 and 18-19 are substantially equivalent to claims 1 and 9-10; therefore claims 15 and 18-19 are similarly rejected.

20. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Carswell et al.* (U.S. Patent No. 5365591) in view of *Atkinson et al.* (U.S. Patent No. 5892904) and in further view of *Official Notice*.

21. *Carswell et al.* teach a telephone network comprising a cable telephony adapter, a gateway controller and a user computer as discussed above.

Carswell et al. do not explicitly teach a provisioning server, a customer service representative center and a billing host coupled with the cable telephony network.

Official Notice is taken that it is old and well-known practice to couple a provisioning server, a billing host and a customer service representative center with a cable telephony network. One of ordinary skill in the art at the time of applicant's invention would couple the billing host to the cable telephony network to allow a billing system to bill cable telephony clients automatically, a customer service representative center to provide additional customer support and at the same time to lower customer support operating costs, and the provisioning server to enable various devices to utilize the telephone network.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Poltorak whose telephone number is (571)272-3840. The examiner can normally be reached Monday through Thursday from 9:00 a.m. to 4:00 p.m. and alternate Fridays from 9:00 a.m. to 3:30 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on (571) 272-3838. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Signature

2/2/08

Date



GREGORY MORSE
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